

REMARKS

Initially, Applicants would like to express their appreciation to the Examiner for the courtesy of the telephonic interview conducted with Applicants' attorney, Mr. Daniel Moon, on October 18, 2007. During the interview the prior art rejection was discussed, and Applicants' attorney explained that the SNODGRASS et al. does not disclose the "actuator" recited in claim 4, and in particular that the hydraulic fluid SNODGRASS et al. cannot be characterized as such an "actuator".

Claims 1-7 are currently pending. The Examiner has withdrawn claims 1-3 and 5-7 from consideration. Applicants respectfully request reconsideration of the outstanding rejections, and allowance of all the claims pending in the present application.

On pages 2 and 3 of the Official Action, claim 4 was rejected under 35 U.S.C. § 102(e) as being anticipated by SNODGRASS et al. (U.S. Patent No. 5,516,429).

Applicants respectfully traverse the rejection of claim 4 under 35 U.S.C. § 102(e).

As an initial matter, Applicants note that U.S. Patent No. 5,516,429 (hereinafter SNODGRASS et al. '429) is a child of, and appears to contain the same disclosure as, U.S. Patent No. 5,167,837 (hereinafter SNODGRASS et al. '837). Applicants further note that the Examiner has previously rejected claim 4 based on the teachings of SNODGRASS et al. '837 in the Official Actions dated November 10, 2005 and October 10, 2006.

Applicants note that the Examiner withdrew the rejection of claim 4 based upon SNODGRASS et al. '837 in the Official Action dated January 31, 2007. Accordingly, it is not clear to Applicants why the Examiner is now rejecting claim 4 over SNODGRASS et al. '429 after acknowledging that SNODGRASS et al. '837 (which apparently contains the same disclosure as SNODGRASS et al. '429) does not anticipate the subject matter of claim 4. Accordingly, if the Examiner intends to maintain the current rejection, Applicants respectfully request that the Examiner provide an explanation as to any additional disclosure (i.e., in addition to that contained in SNODGRASS et al. '837) which is contained in SNODGRASS et al. '429 and which is being relied upon in the current rejection of claim 4.

Claim 4 recites, inter alia, "the discharge pressure regulating device includes an actuator and a diaphragm which is engaged by said actuator and which transforms under influence of said actuator and increases and decreases capacity inside said pressurized chamber."

Applicants submit that SNODGRASS et al. lacks any disclosure of a discharge pressure regulating device which includes *a diaphragm which is engaged by an actuator*, as recited in claim 4. In this regard, Applicants note that the diaphragm 126 in SNODGRASS et al. is clearly not engaged by an actuator. Instead, it is clear from the disclosure of SNODGRASS et al. that the diaphragm 126 is only acted upon by hydraulic fluid, and not by being *engaged by an actuator*.

Further, Applicants note that the Examiner's comments appear to indicate that he is attempting to characterize the hydraulic fluid in the system of SNODGRASS et al. as itself being an "actuator" as recited in the claim. However, Applicants submit that such a characterization is not reasonable in view of the meaning which would be given to the term "actuator" by one having ordinary skill in the art, and particularly when viewed by one having ordinary skill in the art in light of the disclosure of the present application.

The Examiner's attention is directed, for example, to the embodiments shown in Figures 3 and 4 of the present application, in which actuators 7a engage diaphragms 7b. Applicants submit that such engagement of a diaphragm by a *structural actuator* (as recited in the claim) is beneficial in discharging relatively viscous materials, whereas the system of SNODGRASS et al. (in which a diaphragm is only acted upon by hydraulic fluid) is specifically designed for the discharge of less viscous materials. Applicants further submit that one having ordinary skill in the art would not understand the hydraulic fluid in the system of SNODGRASS et al. as reading on such a *structural actuator* (as recited in the claim).

Applicants further note that none of the portions of SNODGRASS et al. specifically pointed out the Examiner discuss or disclose the diaphragm 126 being engaged by an actuator. Applicants respectfully request that the Examiner indicate which portion of the disclosure of SNODGRASS et al. he intends to rely upon for such teaching if he intends to maintain the current rejection. Further, Applicants respectfully requests

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that the Examiner provide some evidentiary support for his apparent position that one having ordinary skill in the art would view the hydraulic fluid in the system of SNODGRASS et al. as itself constituting an “actuator” as recited in the claim.

Applicants respectfully submit that the rejection of claim 4 under 35 U.S.C. § 102(e) based on SNODGRASS et al. is improper at least for each and certainly for all of the above-noted reasons. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(e), and an early indication of the allowance of this claim.

SUMMARY AND CONCLUSION

Entry and consideration of the present remarks, reconsideration of the outstanding Official Action, and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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